



MONTEREY BAY NATIONAL MARINE SANCTUARY SANCTUARY EXPLORATION CENTER

FACILITY USER AGREEMENT

This FACILITY USER AGREEMENT (“Agreement”), dated for reference purposes as of _____, (the “Agreement Date”) is entered into by and between the **Monterey Bay National Marine Sanctuary (“MBNMS”)**, as operator of the Sanctuary Exploration Center (“SEC” or “Center”) and _____ (“User”). Collectively, the costs charged by the Center in the SEC User Cost Estimate, addendum to this agreement shall be referred to as the “Usage Costs.”

Section 1. INDEMNIFICATION AND INSURANCE

Indemnity. User shall defend, indemnify, and hold harmless all employees, volunteers, assignees and licensees of the Monterey Bay National Marine Sanctuary, Sanctuary Exploration Center, City of Santa Cruz and the Monterey Bay Sanctuary Foundation from and against any losses, costs, expenses (including, without limitation, reasonable attorney fees), damages, settlements, and judgments resulting from any claim or action.

Assumption of Risk. User hereby assumes all risk of damage to property or injury to persons in or about the SEC property from any cause including injury to the User, User’s agents, employees, invitees, and associates, contractors, in or about the SEC property from any cause arising at any time, unless damage or injury results from the willful acts or gross negligence of the SEC.

Liability Insurance. User and each of User’s subcontractors and service providers shall at their own expense procure and maintain liability and property damage insurance for protection against all liabilities related to the use or occupancy of the space and operations incidental thereto, with a minimum combined single limit of liability of not less than \$1,000,000 per occurrence. The liability insurance shall consist of the following:

- Commercial general liability insurance,
- Property damage insurance that covers the repair or replacement of exhibits or equipment
- Personal injury
- Host liquor liability coverage
- Commercial automobile liability insurance covering all owned and hired autos.

All insurance required under this Agreement shall:

(a) Be issued by insurance companies approved to do business in the State of California having a financial rating of not less than A-VII as rated in the most recent edition Best’s Insurance Report.

(b) Stipulate User’s, subcontractors’ and service providers’ commercial general liability insurance as primary insurance to and without right of contribution from similar insurance carried by SEC.

(c) Contain an endorsement requiring thirty (30) days written notice by the insurance company to the SEC before canceling, non renewing, or changing coverage, scope or amount of any policy.

(d) Be evidenced by a certificate of insurance as set forth under the Agreement reflecting as an additional insured: the Monterey Bay National Marine Sanctuary, Sanctuary Exploration Center, and Monterey Bay Sanctuary Foundation. *n*.

Workers' Compensation Insurance. User and each of User's subcontractors and service providers shall maintain worker's compensation insurance at statutory limits required in the State of California.

Incorporation. User shall incorporate the provisions of this Section 3 into its agreements with any subcontractors or service providers so that all such subcontractors and service providers shall also be bound to its requirements.

User Initials Here to Agree to these Terms and Conditions: _____

Section 2. FEES, RESERVATIONS, AND CANCELLATIONS

Fees (for facility rental rates, see Facility Rental Fees document)

The SEC is considered "Reserved" upon SEC receipt of:

- completed and User signed Facility User Agreement
- completed SEC Facility Request Form
- completed SEC User Cost Estimate
- User Facility Rental Deposit and Security Deposit

User agrees to pay for all SEC staff time for set-up and break-down, security, custodial, and administration fees. Actual costs may exceed SEC User Cost Estimate if, for example, User's event goes overtime and additional hours are required for security and/or staff services.

All checks and fees shall be made out to the MBNMS nonprofit partner organization:

Monterey Bay Sanctuary Foundation (MBSF)
99 Pacific Street, Suite 455E
Monterey, CA 93940

The Facility Rental Deposit reserves the SEC for the designated date, preventing any other User from booking an Event on that date. The amount of the deposit, 50% of the Total Estimated User Cost, is deducted from the Total Amount Due.

The Security Deposit, \$1,000.00, will be fully or partially refunded to the User after SEC Staff has completed a post-event facility inspection. If any additional expenses are incurred (cleaning, breakage, etc), they will be deducted from the Security Deposit.

All Total Estimated User Costs must be paid at least 20 days prior to the Event. Failure to pay all Total Estimated User Costs 20 days prior to the Event will result in Event cancellation without refund.

Amendments to the Contract (increase or decrease in attendees, change of Event time or duration, use of facilities) must be requested in writing and approved by the SEC Director.

User Cancellations

Cancellations must be made in writing.

Cancellations made more than 90 days prior to the Event will be fully refunded.

Cancellations made more than 30 days and less than 90 days will receive 50% refund.

Cancellations made less than 30 days prior to the event will not be refunded.

SEC Cancellation

The SEC reserves the right to cancel any reservation if the following conditions apply:

SEC determines that the reservation would be inconsistent with its charitable purposes or that the event falls outside the scope of the focus of its Mission and Goals

Failure to pay all estimated fees 30 days prior to Event

A Major Event occurs caused by circumstances beyond SEC's control, which may delay or prevent the SEC from being safely used for events. Cancellation for these reasons does not represent a breach of the User Agreement, and includes but is not limited to fire, earthquake, flood, structural damage to the SEC's facilities, or civil disorder. If such an event occurs, User will be notified as soon as possible.

GOVERNING LAW: This Event Contract shall be governed and interpreted in accordance with the laws of the state of California, U.S.A. as such laws apply to contracts made between, and performed entirely in that state. The parties agree that any claim or controversy arising out of or relating to this Event Contract or any breach hereof shall be submitted to a court of applicable jurisdiction in the state of California, and each party hereby consents to the jurisdiction and venue of such court.

To confirm and accept the terms described above, please sign and date this contract, return the original, and keep a copy for User's files.

Understood and Agreed on behalf of the Sanctuary Exploration Center:

Authorized Signature:

Date: _____

MBNMS representative

Understood and Agreed on behalf of **(USER):**

Authorized Signature:

Date: _____

User